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**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

) Case No.: C07-04325 SBA
)
)
) PLAINTIFF EDEN HOUSING
) MANAGEMENT INC.'S EX PARTE
) APPLICATION FOR ORDER
EDEN HOUSING MANAGEMENT, INC.,) SHORTENING TIME FOR HEARING ON
) MOTION FOR REMAND
Plaintiff/Petitioner,)
) Action Filed: August 9, 2007
vs.	Action Removed to this Court:
JAMES KARIM MUHAMMAD,	August 22, 2007
Defendant/Respondent.	Date: November 27, 2007
	Time: 1:00 pm
	Place: Courtroom 3, 3 rd Floor
	Judge: Hon. Sandra Brown Armstrong

Filed concurrently with:

1. Declaration of Nicole Hodge
2. [proposed] Order.

PLAINTIFF AND PETITIONER'S EX PARTE APPLICATION FOR ORDER SHORTENING TIME

1 APPLICATION FOR RELIEF

2 Pursuant to Rule 6(d) of the Federal Rules of Civil Procedure and Civil Local Rules 6-3
 3 and 7-10, Plaintiff and Petitioner Eden Housing Management (hereinafter "Petitioner"), hereby
 4 move to shorten time for consideration of their concurrently submitted Notice of Motion and
 5 Motion for Remand (collectively "Motion for Remand"). Petitioner seeks and expedited
 6 briefing and hearing schedule under which: 1) Respondent James Karim Muhammad (hereinafter
 7 "Respondent") would file his Opposition to Petitioner's Motion for Remand, if any, not later
 8 than November 19, 2007; 2) Petitioner would file its Reply to Respondent's Opposition, if any,
 9 not later than November 21, 2007; and, 3) this Court would hear Petitioner's Motion for
 10 Remand at 3:00 pm on November 29, 2007 before the currently scheduled case management
 11 conference in this matter, or as soon thereafter as this Court deems practicable
 12

13 The Memorandum of Points and Authorities below and accompanying Declaration of
 14 Nicole D. Hodge establish good cause for this Motion.
 15

16 MEMORANDUM OF POINTS AND AUTHORITIES

17 I. PROCEDURAL HISTORY

18 On August 9, 2007, Petitioner filed the Summons and Complaint for Unlawful Detainer
 19 against Respondent, for material breach of the lease agreement, whereby Respondent assaulted
 20 two members of Petitioner's property management staff. This lawsuit was originally filed in
 21 Contra Costa Superior Court, as limited civil case no. RS07-0943. Unlawful detainer actions are
 22 a summary remedy, and are given preference in trial setting pursuant to California Code of Civil
 23 Procedure §1179a. Before Respondent was served with said Summons and Complaint, he
 24 removed the case to District Court pursuant to 28 USC §1441. Following Respondent's service
 25

PLAINTIFF AND PETITIONER'S EX PARTE APPLICATION FOR ORDER SHORTENING TIME

1 and receipt of his Answer, on September 12, 2007 Petitioner filed an Application, *ex parte*,
2 requesting that the matter be remanded back to Superior court for lack of subject matter
3 jurisdiction. To date here has been no ruling. The instant Motion for Remand will determine
4 whether this Court has subject matter jurisdiction over the Complaint for Unlawful Detainer. It is
5 Petitioner's contention that given the limited civil nature of the lawsuit for eviction, adjudication
6 falls under the exclusive jurisdiction of the state court. California Code of Civil Procedure §§
7 85(c)(4), 86(a)(4).
8

9 A swift and timely resolution on the Motion for Remand is essential to remediating the
10 ongoing harm to Petitioner, who continues to be deprived of possession of its rental premises as
11 well as the ability to collect any rents for said premises well beyond the time intended for
12 unlawful detainers to be resolved. In addition, both this Court as well as the Superior court
13 continue to incur unnecessary expenditure of judicial resources by having the matter pending in
14 both venues. As Petitioner has already had to defend an Order to Show Cause in state court for
15 failure to adjudicate the unlawful detainer within 45 days or less (which has been continued until
16 December 19, 2007), the expedited briefing and hearing schedule will avoid any further waste of
17 temporal and pecuniary resources for all involved. Finally, the expedited briefing schedule is no
18 different that that which would be afforded in any unlawful detainer action in State court, given
19 that a minimum five day notice period is legally appropriate in unlawful detainer actions. Given
20 the time sensitivities, the ongoing, unnecessary waste and the priority normally afforded cases of
21 this nature, an order shortening time for the hearing of the Motion for Remand is warranted.
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PLAINTIFF AND PETITIONER'S EX PARTE APPLICATION FOR ORDER SHORTENING TIME

CONCLUSION

For all the foregoing reasons, this Court should enter an order establishing an expedited briefing and hearing schedule for Petitioner's Motion for Remand.

Dated: November 13, 2007

Respectfully submitted,

/s/Nicole Hodge
Nicole Hodge,
Attorney for Petitioner